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THE UNITED NATIONS SPECIAL COMMISSION:
FUTURE ROLES IN NON-PROLIFERATION AND REGIONAL SECURITY?

ESSAY
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The United Nations Special Commission:
Future Roles in Non-Proliferation and Regional Security

Introduction

Traditionally efforts to control the proliferation of nuclear, chemical, and biological weapons -- often lumped together as "weapons of mass destruction" -- have focused on creating an international legal obligation against possession or use, plus an international regime for verifying compliance with that obligation.¹ This approach has worked well for the majority of states which neither face an overwhelming threat to their security nor harbor hegemonic designs against neighbors. Evidence of this is clear from the experience with nuclear weapons and the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Most states have not only joined the NPT, but are clearly abiding by their obligations.²

A number of states confronting regional security challenges refuse to join the NPT, arguing (among other reasons) that to do so is not in their national security interests. India feels threatened by China, and Pakistan feels threatened by India. For many years Argentina and Brazil considered each other to be the principal national security threat. Today Israel and its Arab neighbors are in a state that might be called "nether-peace," striving to build peace but still perceiving grave threats from each other. For such states the traditional non-proliferation regimes did not provide sufficient incentive -- which is to say, confidence in the adversary's willingness to also join and then

to comply. Proliferation is a manifestation of deeper problems, frequently an otherwise unmanageable threat to national security.

A few states seek weapons of mass destruction not to counteract a threat, but to pose one. Such states may join the NPT and other non-proliferation agreements,³ but to help conceal efforts to obtain these weapons.⁴ To date only one state, Iraq, has been caught in the act.⁵ Following the Gulf War the international community needed a new mechanism to ferret out and dismantle Iraq's nuclear, chemical, and biological weapons programs, as well as its ballistic missile delivery systems and programs to develop more capable missiles. This new mechanism, the United Nations Special Commission (UNSCOM), was created by the Security Council and given extraordinary powers in Iraq.⁶

UNSCOM's success has led to suggestions that its mandate be extended, or a similar structure be used, to address other problems of proliferation.⁷ This paper will consider the question of whether UNSCOM itself might play a valuable role in other non-proliferation areas, or whether it may provide a model for similar new approaches to those problems.

Origins & Role

On March 25, 1991 President Bush announced a cease-fire agreement between Iraq and the coalition implementing United Nations Security Council Resolution 678. During the war many coalition partners were concerned that Iraq might use chemical, or possibly even nuclear, weapons. After the war, and in response to Iraqi statements "threatening to use weapons in violation of its obligations under the Geneva Protocol ... and of its prior use of chemical weapons," and

"concerned" by reports that "Iraq has attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons,"⁸ the Security Council took unprecedented measures. Acting under Chapter VII of the Charter, the Security Council decided "that Iraq shall unconditionally accept the destruction, removal or rendering harmless, under international supervision" of all nuclear, chemical, and biological weapons and related items, as well as all ballistic missiles with ranges of more than 150 kilometers.⁹ To perform this function the Security Council established a special, temporary agency, the Special Commission.¹⁰

Working under this mandate the Secretary-General created a small organization in New York to oversee the work of experts, to be seconded from member States, who would perform the work of on-site inspections and destruction of biological and chemical warfare agents and weapons and related production facilities, as well as similar functions for ballistic missiles.¹¹ UNSCOM was established as a small office, consisting of a few diplomats as senior managers, an operations planning staff, an information assessment unit, and administrative personnel. The whole staff numbered about 20, some detailed from the Secretariat but more than half (like the inspectors) seconded by member State governments.¹²

The inspectors also would not be permanent employees of the Special Commission (or the United Nations Secretariat), but would be seconded by governments to serve on an inspection by inspection basis. This arrangement held several advantages. First, and very importantly from the U.N.'s point of view, UNSCOM would obtain their services on a cost-free basis, salaries being the responsibility of the sending

governments.¹³ Second, it permitted UNSCOM maximum flexibility in terms of mix of professional capabilities and nationalities. It also made it possible for states to provide individuals who otherwise would not have been available.

At the same time, the use of inspectors seconded for individual missions created certain difficulties. Coordination within each inspection team required greater planning and control. The loyalties of some inspectors were subject to question, and the Iraqi government frequently claimed (undoubtedly with some justification) that some inspectors were intelligence officers and reporting to their own governments as well as to UNSCOM. On this basis, Iraq argued that the Special Commission was not truly an international entity, but rather a thin glove over the hands of a few Western governments, principally the United States. Notwithstanding the clear Security Council mandate, Iraq's claims created some political problems for the conduct of the Commission's business, and stung the Bush administration. The problem was exacerbated by accounts in U.S. newspapers purporting to quote U.S. officials making the same claim:

Both the Bush administration and UNSCOM officials deny that the United States has been dictating to the Special Commission which sites are to be inspected. "What [the teams] elect to inspect and when they do these inspections is strictly their decision," Bush said. UNSCOM spokesman Tim Chervan [sic] said that while "any country can give us advice and information, we decide when and where to inspect." Reacting angrily to the Times article, Bush called the report a "clear breach of security," but did not deny its contents.¹⁴

For many Western, and especially U.S., observers, UNSCOM's ability to receive and use intelligence information from Western governments is a major reason for its success, and in fact a primary reason for

considering UNSCOM directly, or as a model, for addressing other international security problems:

The U.N. initiative to police Iraq's compliance with the April 1991 cease-fire agreements points also to the possibility of a growing U.N. role in monitoring and verifying treaty compliance. The U.N. Special Commission's unique experience in the use of information provided by various national intelligence agencies has stirred interest in supporting new U.N. roles in this area.¹⁵

Whether the experience is in fact, or need be, unique is a separate matter, but it is clear that UNSCOM inspectors frequently acted upon intelligence information provided by member States,¹⁶ even if they did not, as Iraq claimed, also act to collect such information for (at least some of) the sending governments. This issue takes on greater significance in the context of possible new roles for UNSCOM.

New Roles & Missions

If UNSCOM has proven effective in performing its role viz a vis Iraq, what does this imply for other roles, and what might those other roles be? Certainly UNSCOM (or a similar organization free of UNSCOM's historical baggage) could provide a similar capability should the Security Council take action against some other pariah state. This would depend not only on the fact of the Security Council taking action to find some other country to constitute a threat to international peace and security under Chapter VII of the Charter, but also on the nature of the action to be taken.

One potential case might be North Korea, which has for the past two years essentially refused to fulfill its obligations to accept verification of all peaceful nuclear activities, especially by refusing

to permit verification that its declared activities in fact represent all nuclear activities in North Korea. The International Atomic Energy Agency (IAEA) is responsible for performing NPT safeguards inspections, and to date has performed exceptionally well. The key issue is obtaining access by inspectors. If the Security Council is confronted with continued North Korean intransigence, or even by a decision to end "suspension" of its withdrawal from the NPT, further action will be necessary. If the Security Council decides to impose sanctions, it is unlikely that UNSCOM could play any useful role, at least initially.

The Security Council could decide (though it appears most unlikely at this juncture) to go beyond the questions of NPT safeguards inspections and sanctions, and find North Korea's behavior (not simply its development of nuclear weapons but doing so after having adhered to the NPT) to constitute a threat to international peace and security. The basis for such a finding was established both in Security Council resolutions concerning Iraq and, perhaps more importantly, on January 31, 1992 when the Council, acting at the heads of state and government level, declared that the proliferation of weapons of mass destruction represents a threat to international peace and security.¹⁷

If the political confrontation between North Korea and the international community should lead to war, UNSCOM might (following North Korea's defeat) be given essentially the same role it has played in Iraq. But it might also be possible for UNSCOM to play a role in achieving a less confrontational outcome. North Korea has repeatedly claimed that the IAEA has acted in a biased and inappropriate fashion.¹⁸ Part of a deal to obtain access to the two nuclear waste storage sites might involve shifting responsibility for inspecting those sites from

the IAEA to UNSCOM, which would act on behalf of the Security Council but could also report to the IAEA Board of Governors. The deal could even include agreement between North Korea and the Security Council as to which countries' nationals were acceptable as inspectors.

Any such deal would have several very negative effects, foremost being to undermine the IAEA's effectiveness in future confrontations. It would also fundamentally change the IAEA's relationship to the Security Council. Before even proposing such a compromise, the Security Council and the IAEA Board of Governors would have to consider the costs of success (such as putting the Security Council in the middle of, rather than above, the confrontation) as well as failure, and the probability of genuine success. However, it is clear that UNSCOM could perform the task, and possibly reduce the now very high political costs North Korea must perceive to accepting inspection of these key sites.

Similar roles could be foreseen for UNSCOM with respect to Iran, although the details of the scenario are rather different. At present it is difficult to see the Security Council finding Iran to be a threat to international peace and security, and mandating action similar to that taken against Iraq. The Clinton administration has identified Iran as one of the "backlash" states¹⁹ posing a threat to the international community, and Iran did use chemical weapons in retaliation for Iraqi use during their war, but Iran (unlike North Korea) has been careful to avoid provoking the international community at large. The political consensus needed for Chapter VII action in the Security Council seems a long way off.

Finally, of course, should another state's behavior produce Security Council action similar to the resolutions addressing Iraq,

UNSCOM could be called upon to play a role. But such an eventuality is very speculative at this time.

Global Roles in Regional Inspection

The possibility of using UNSCOM as a new and "neutral" actor in the North Korean case suggests the possibility of a similar role in regional conflicts. Over the last five years Argentina and Brazil have moved from a position of bilateral political confrontation with strong pressures for proliferation to a bilateral treaty relationship and joint operation of a multinational nuclear safeguards inspectorate. Argentina and Brazil, by virtue of coincident transitions from military to democratic governments and other factors, were able to gain enough confidence in each other to move from confrontation to cooperation and inspection of each other's nuclear facilities. (Chemical and biological weapons were not at issue, and each country's missile programs have been removed from the bilateral security equation by other methods). But other confrontational regional systems have not managed to get over the threshold of mutual distrust and fear.

Recently Israel and its Arab neighbors have made great progress towards reducing tensions and building relationships which could provide the foundation for establishing a zone free of all weapons of mass destruction. Whether the Middle East peace process will survive the murder of 39 Arabs by a radical Israeli settler in Hebron is unknown. Most observers appear to believe that the peace process will get back on track, but with heightened mistrust. One important question will remain much the same as before: how to find some solution to the present low-level balance of terror which exists in the Middle East. That Israel

possess as many as 100 nuclear weapons is a commonplace belief, lacking only formal confirmation from the Israeli government. Several Arab states are widely believed to possess chemical weapons, and one or two may even possess biological weapons (or at least are believed to be working on such weapons).²⁰

One possibility would be for all the states in the region to agree to concurrent adherence to the NPT, the CWC, and the BWC. Such action would be a dramatic step towards greater regional security. However, there are several difficulties with achieving such a result. First, there are many problems with verification in this approach. The IAEA has a rather negative history in the region (and recent steps to correct the deficiencies demonstrated so baldly by Iraq are far from fully implemented). Covert nuclear programs, or retention of existing nuclear weapons, are a grave concern in the region, and a more intrusive and effective inspection regime would be needed. Secondly, the CWC is not yet in force, and it must be expected that many growing pains will be experienced before the OPCW is accepted as a truly effective inspection regime. The BWC does not include any inspection arrangements, and compliance procedures for this convention remain very problematic. Finally, all these agreements, and their verification regimes, are global in scope and thus will not be responsive to the specific context and political demands of the Middle East. In the Middle East security context it will be essential to balance elimination of Israel's nuclear weapons against Arab chemical and (possible) biological weapons in one large package. None of the states in this region is likely to find an arrangement cobbled together from existing pieces to be adequate.

An alternative might be for some outside entity to offer the verification version of "good offices." That is, the Secretary General²¹ or the Security Council might offer UNSCOM's services in managing an inspection process, to be defined by regional agreement, which addressed nuclear, chemical and biological weapons together.²² The agreement could even include either ballistic missiles or, more broadly, all strategic delivery systems. In essence, UNSCOM might provide a "crystallization site" for a regional security agreement by constituting a neutral arbiter in the verification process. UNSCOM, by virtue of answering only to the Security Council, would avoid many problems of political balance. The fact that the Arab states far outnumber Israel would not be a problem, and extraneous political factors such as operate in the IAEA Board of Governors, and almost certain to operate in the CWC Executive Council as well, would be avoided.

Another region facing severe confrontation and the threat of nuclear war is South Asia. India and Pakistan have fought three bloody wars, and according to some reports nearly moved to nuclear war in 1990.²³ The United States and others have devoted a great deal of diplomatic energy to the search for a solution, and progress has been quite limited to date. Without the political will of the parties, even a "crystallization site" will not produce progress. However, sometimes political will is a function of perceived opportunities for success, and such an initiative could help create the conditions necessary for success.

Finally, UNSCOM might be proposed as a neutral coordinator for implementing the bilateral inspections which are called for in the "non-

nuclear agreement" between North and South Korea.²⁴ However, given the nature of the relationship between the two Koreas (including the shared view that there is one Korean nation), it is unlikely that UNSCOM could facilitate implementation of this agreement.

But Would it Work?

Were such proposals made, and were the participants in a regional security confrontation interested in exploring the possibility of an UNSCOM role, several important issues would remain to be addressed.

One important question would be the degree to which UNSCOM could perform as a regional organization rather than a global organization operating in a regional context. The regional parties might so mistrust their adversaries that they would be unwilling to accept inspections by the other side. One possibility would be for UNSCOM to provide inspectors from some agreed upon list of neutral or mutually trusted non-regional powers. A second possibility is that the regional states would in the course of negotiating the regime to be implemented, develop sufficient mutual trust to permit UNSCOM to use inspectors from the region. Alternatively, in the end it might even be that the regional states would find sufficient trust to establish a regional organization to perform the inspections.

Inspections are only one component of verifying compliance. Another is evaluating the information and judging compliance. UNSCOM is not now charged with any responsibility for judging Iraqi compliance with Security Council resolutions, and does not have the capabilities to perform such a politically charged role. Nor should it, either when acting as an inspection agent for the Security Council or some regional

non-proliferation and security agreement. Judgments of compliance or non-compliance, and subsequent actions (sanctions, whether political, economic, or military) to obtain compliance should be handled either by the Security Council or by some other political body. The inspectors' job is to collect information, and when necessary to inform political councils that the available evidence does not permit confirmation that a state is complying -- essentially the inspectors issue an indictment. As in municipal law, "convicting" a party of violating the law is an act requiring sovereignty (or some other internationally recognized authority to decide), and probably best performed by a jury of peers organized under that mantle.

As discussed above, it is public knowledge that UNSCOM routinely obtained intelligence information from interested member States.²⁵ There is also widespread suspicion that some inspectors seconded to UNSCOM for specific inspections, selected for their specific knowledge and technical capabilities, came from national intelligence agencies. Whether, as Iraq so frequently claimed, any of these inspectors also collected information on behalf of their national governments rather than for UNSCOM is unknown. The important question is whether such concerns would surface if UNSCOM were to take on new roles not involving implementation of resolutions adopted by the Security Council pursuant to Chapter VII of the Charter.

How would these close links with national intelligence agencies affect the acceptability of UNSCOM for other roles? We can only speculate, but certainly the degree to which such concerns would surface if UNSCOM took on new roles would depend first on who controls the selection of inspectors. If, as in the Iraqi case, a Security Council

mandate stipulated "anywhere any time" inspections to eliminate a threat to international peace and security, the issue is immaterial. Were UNSCOM to perform a neutral "good offices" function in coordinating inspections mutually agreed as part of a regional security agreement, the parties to that agreement could control the nationality of all inspectors. Concerns that inspections provided an opportunity for covert intelligence collection would be no more severe than for NPT or CWC mandated inspections.²⁶

A final issue relates to the history of confrontation between Iraq and UNSCOM inspectors. Iraq has consistently refused to implement (or, in some cases, even accept) Security Council resolutions, arguing that to do so violates Iraqi sovereignty. Essentially, Iraq has denied that it was defeated in war, and hence at the mercy of the victorious powers, in this case acting collectively under the aegis of the U.N. Security Council. UNSCOM's implementation of its mandate has resulted in serious confrontations, several of which caused the coalition powers to resort to further military action to ensure compliance.²⁷

Would this history inhibit UNSCOM's ability to perform a coordinating role for new regional security arrangements? As with the intelligence issue, there is no reason to perceive a problem. UNSCOM has acted entirely within its mandate as established by the Security Council, and the military actions taken to enforce that mandate were taken by Security Council members acting pursuant to Council resolutions. UNSCOM was not party to those decisions. Given a very different mandate by a regionally defined group of states acting voluntarily, there would be no authority for confrontation beyond that included in the agreement negotiated among the regional parties.

Enforcement decisions would belong to those states seeking an UNSCOM role (subject, of course, to the ultimate authority of the Security Council to take action under the Charter, a power which already exists).

Conclusions

Given the degree of cooperation Iraq has demonstrated to date, UNSCOM will remain in operation for a long time to come. The long-term monitoring required to ensure that Iraq does not begin to rebuild the programs detected and destroyed, or refurbish equipment and weapons so far successfully hidden from the inspectors, will require years.

More importantly in the long run, UNSCOM may at least provide a useful model for approaching other proliferation and security problems. Hopefully UNSCOM will not be needed to implement any new Security Council resolutions in other situations, but the mechanism is available and capable of performing effectively so long as the vital ingredients - political will and consensus in the Security Council -- are there.

Whether UNSCOM will play a role in cooperative regional security arrangements cannot be predicted. To date, there appears to have been no serious discussion of this possibility. It may well be that UNSCOM would provide the model, but not the actual apparatus, for inspection activities under such agreements. UNSCOM has demonstrated that such a mechanism, with the proper authority and commitment to enforcement supporting it, can operate under very difficult conditions, and has provided lessons worth learning.

Notes

¹ The first effort was the United Nations Atomic Energy Commission, established by the first resolution of the new United Nations General Assembly in January 1946. More effective manifestations of this approach have been the NPT, the Biological Weapons Convention (which does not include compliance verification) and the recently signed but not yet in force Chemical Weapons Convention.

² This judgment, while supported by the annual reports of the IAEA, is based on the author's evaluation of the consensus view among non-proliferation and national security experts in the United States and abroad.

³ The 1972 Biological Weapons Convention (BWC) and the just signed Chemical Weapons Convention (CWC), which will not enter into force for at least another year.

⁴ Until the Chemical Weapons Convention enters into force, there is no international legal prohibition on possession of chemical weapons, although the Geneva Protocol of 1925 outlaws use (or at least first use) of chemical weapons.

⁵ One might argue that North Korea has also been caught developing nuclear weapons. To date North Korea has clearly violated its obligation to permit complete inspections. Whether this is to conceal the more serious violation of developing nuclear weapons or not is unproven (highly likely, but in the international legal context, unproven).

⁶ United Nations Security Council Resolution 687, March 2, 1991.

⁷ This proposal has been made repeatedly at conferences and in interviews by David Kay, formerly a senior IAEA official, and somewhat less forcefully by UNSCOM's Executive Chairman, Rolf Ekeus and others. However, the idea does not appear to have been fleshed out anywhere. Former Deputy Executive Chairman of UNSCOM Pierce S. Cordon has referred to the inspection and information provisions of the UNSCOM and IAEA long-term monitoring plans as "a sort of 'natural resource' for their possible adaption and application to the verification of dual-use activities in the states participating in" a weapons-free zone approach. See also Brad Roberts, "Arms Control and the End of the Cold War," The Washington Quarterly, Autumn, 1992, pp. 39 - 56.

⁸ United Nations Security Council Resolution 687, preamble.

⁹ Ibid., paragraphs 8 & 12.

¹⁰ UNSCOM's term is temporary but indefinite: the Security Council must find "that Iraq has completed all actions contemplated in paragraphs 8,

9, 10, 11, 12, and 13 above, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall have no further force or effect." (paragraph 22 of resolution 687). At such time UNSCOM would have no further role in Iraq.

11 To address the nuclear issues, the Security Council mandated special international controls over Iraqi's peaceful nuclear program and gave special and unprecedented powers to the International Atomic Energy Agency to eliminate Iraq's nuclear weapons program. See Security Council Resolution 687, paragraph 13.

12 Interview with former Deputy Executive Chairman Pierce S. Cordon, March 2, 1994.

13 Financing UNSCOM, and IAEA, activities implementing the Security Council resolutions has been one of the most difficult aspects of the operation. While beyond the scope of this paper, financing issues would also be central to any additional roles for UNSCOM.

14 Jon Wolfsthal, "IAEA Inspector Calls Iraqi Nuclear Program Over," Arms Control Today, volume 22, number 7 (September, 1992), p. 29.

15 Brad Roberts, "Arms Control and the End of the Cold War" The Washington Quarterly, Autumn, 1992, p. 44.

16 Pierce S. Cordon, "Implementation of Section C of UN Security Council Resolution 687 (1991): an Analysis of the Practice and of the Problems Involved," paper presented at UNIDIR/Volkswagen-Stiftung conference on Disarmament and Arms Limitation Treaties or Agreements: Problems of Compliance and Enforcement, August 5 & 6, 1993, Geneva [in press].

17 Pierce S. Cordon, "Arms Control in Iraq: the United Nations Experience" unpublished manuscript, paragraph XVII.

18 These allegations were reflected, somewhat obliquely, in the text of the U.S.-North Korean Joint Declaration of June 11, 1993, which referred to "impartial application of full-scope safeguards." (emphasis added) See Jon B. Wolfsthal, "U.S.-North Korean Talks Defuse NPT Crisis For Now," Arms Control Today, volume 23, number 6 (July/August 1993), p. 19.

19 This term seems to have first appeared in a speech by Anthony Lake, assistant to the President for national security affairs, presented at the Johns Hopkins University School of Advanced International Studies on September 21, 1993. Reprinted in U.S. Department of State Dispatch, September 27, 1993, 4/39.

20 Leonard S. Spector, Nuclear Ambitions: The Spread of Nuclear Weapons 1989 - 1990, Washington, D.C.: The Carnegie Endowment, 1990, Part III, "The Middle East"; see also Martin van Creveld, Nuclear Proliferation

and the Future of Conflict, New York: The Free Press, 1993, Chapter IV: "Nuclear Weapons in the Middle East"; and "Factfile: Chemical Weapons in the Middle East" Arms Control Today, volume 22, number 8 (October 1992), pp. 44 - 45.

21 Such an action would be outside the Secretary General's mandate under the Charter. There is reason to believe that such "technicalities" might not deter the current Secretary General. Alternatively, the Security Council may permit or even encourage him to make the proposal, so as to avoid making the Security Council a participant in the issue it is responsible for judging.

22 In this regard, it is important to note paragraph 14 of Security Council Resolution 687, in which the Security Council "Takes note that the actions to be taken by Iraq in paragraphs 8, 9, 10, 11, 12, and 13 of the present resolution represent steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery." One must however note that Iraq has at every step resisted just those actions.

23 Seymour Hersch, "On the Nuclear Edge," The New Yorker, March 1993, pp. 56 - 73.

24 "Joint Declaration on Denuclearization" issued by the Democratic People's Republic of Korea and the Republic of Korea in 1991.

25 Pierce S. Cordon, "Implementation of Section C of UN Security Council Resolution 687 (1991): an Analysis of the Practice and of the Problems Involved," op. cit.

26 And should be somewhat less than for CWC inspections, given the potentially greater control over nationality of inspectors.

27 A brief review of these confrontations and the military responses to them, is provided in Pierce S. Cordon, ibid.

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